

Panel on Manpower

List of outstanding items for discussion

(position as at 6 February 2015)

**Proposed timing
for discussion**

1. Review of the Employment Ordinance - the requirement of "continuous contract"

At the meeting on 17 November 2011, members noted that the Administration would review the continuous contract requirement (the so-called "4-18" requirement) under the Employment Ordinance (Cap. 57) ("EO").

To be confirmed

The Panel received views from deputations on the review of the continuous contract requirement at the meeting on 19 March 2013. After consulting the Labour Advisory Board ("LAB") on the results of the review in May and July 2013, the Administration briefed members on five possible approaches to deal with the continuous contract requirement at the meeting on 31 July 2013. The Panel passed a motion proposing the Administration to abolish the 4-18 requirement.

Hon CHAN Yuen-han and Hon TANG Ka-piu proposed vide their joint letter dated 17 October 2014 (LC Paper No. CB(2)152/14-15(01)) that the Panel should follow up on the subject. The Administration's response was circulated to members vide LC Paper No. CB(2)383/14-15(01) on 3 December 2014. The Administration advised that it would revert to the Panel once it was in a position to do so .

2. Establishment of a central compensation insurance fund

On 19 May 2005, the Panel was briefed on the proposed measures to improve the employees' compensation insurance ("ECI") system in Hong Kong. The Administration presented its research findings on the operation of the ECI schemes in some overseas countries and the views received from the insurance industry. As

To be confirmed

replacing a private market by a central ECI scheme would have significant impact on insurers, LAB agreed to test run a "residual scheme" proposed by the Hong Kong Federation of Insurers. The scheme sought to act as a market of last resort to assist employers who had difficulties finding ECI cover. At the meeting, the Panel urged the Administration that, while introducing the residual scheme, it should also consider pursuing a central ECI scheme in the long run.

At the meeting on 15 March 2007, the Panel was briefed on the structure and mode of operation of the Employees' Compensation Insurance Residual Scheme scheduled to be launched by the insurance industry on 1 May 2007. The Panel was advised that a mid-term review of the progress of the Scheme would be conducted one year after implementation and an overall review after operating the Scheme for two years.

The outcome of the review of the Scheme was circulated to members vide LC Paper No. CB(2)2509/08-09 on 22 September 2009.

At the Panel meeting on 19 February 2009, Hon LEE Cheuk-yan proposed that the employee compensation for injury/death caused by accidents en route to work be discussed by the Panel.

3. Progress of establishment of a Qualifications Framework ("QF")

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the progress of the establishment of QF proposed by the Administration should be discussed by the Panel.

To be confirmed

The Accreditation of Academic and Vocational Qualifications ("AAVQ") Bill was introduced into LegCo on 6 July 2005. The Bills Committee formed to scrutinize the Bill completed its scrutiny of the Bill on 27 March 2007. The Bill, with amendments, was enacted

on 2 May 2007. The AAVQ Ordinance commenced full operation on 5 May 2008.

The Administration reported to the Panel the development of QF at the meetings on 23 October 2008, 16 July 2009, 22 October 2009, 17 June 2010, 21 October 2010, 17 June 2011, 20 October 2011, 25 January 2013, 27 January 2014 and 20 January 2015.

[Note : The Administration has advised that the Education Bureau will continue to make a report to the Panel, on a yearly basis, on the latest progress of QF implementation in the policy briefing by the Secretary for Education on the Chief Executive's Policy Address.]

4. Review of whether medical certificates issued by chiropractors should be recognised under labour legislation

At the Panel meeting on 17 June 2011, the Administration briefed members on the findings of the Inter-bureaux/departmental Working Group on its study of recognition of medical certificates issued by registered chiropractors as valid sick leave certificates under labour-related legislation. While agreeing with the recommendation made by the Working Group not to recognise medical certificates issued by chiropractors under labour-related legislation at that juncture, the Administration informed members that the Labour Department ("LD") would commission the Census and Statistics Department ("C&SD") to conduct a comprehensive survey to gain a more updated and thorough understanding of the community's knowledge and utilisation of chiropractic treatment and to gauge the prevalence of chiropractic treatment in Hong Kong.

To be confirmed

At the Panel meeting on 18 February 2014, the Administration briefed members on the survey findings on chiropractor consultation by the public published by C&SD on 8 November 2013; the latest development of chiropractic in Hong Kong and other places; and the Administration's review findings on whether medical

certificates issued by chiropractors should be recognised under labour legislation. Members were advised that at the meeting of LAB held on 3 December 2013, no consensus was reached on the subject. Noting that the Chiropractors Council of Hong Kong ("CCHK") had set up a "Committee on Issue of Sick Leave Certificates" and a "Committee on Review of the Code of Practice" to study the formulation and drafting of guidelines for the issuance of sick leave certificates and to consider including provisions on handling medical records in their Code of Practice respectively, members agreed that pending the work progress of the two committees concerned, the Panel would revisit the issue and receive views from deputations including CCHK at a future meeting.

5. Mental impairment arising from occupational injury

In his letter dated 10 May 2010 (LC Paper No. CB(2)1589/09-10(01)), Dr Hon PAN Pey-chyou expressed concern about the definition of occupational injury under the Employees Compensation Ordinance (Cap. 282) ("ECO"), and whether the Ordinance would cover mental impairment arising from occupational injury. He proposed that mental impairment caused by work incidents and mental impairment and illnesses arising out of employment should be discussed by the Panel.

To be confirmed

6. Standard working hours

At the Panel meeting on 11 July 2012, the Administration advised that the third term Government had completed the policy study on standard working hours and a report had been submitted to the then Executive Council ("ExCo") in mid-June 2012. Since standard working hours was a highly complex and controversial issue which has far-reaching implications on Hong Kong's society and economy, Members of the then ExCo recommended that the report should be passed to the new Administration for consideration. A special committee comprising government officials, representatives of labour unions and employers' associations, academics and community leaders

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would be set up to follow up on the completed study.

The Administration released the full report of the Policy Study on Standard Working Hours on 26 November 2012. The issue was discussed at the Panel meeting on 18 December 2012. The Standard Working Hours Committee ("SWHC") has been set up for a term of three years from 9 April 2013.

At the Panel meeting on 31 July 2013, the Administration provided members with an update on the work progress of SWHC, including its work plan. The Administration further briefed the Panel on the work progress of SWHC on 20 May 2014.

At the Panel meeting on 17 July 2014, members agreed that the major views collected during the public consultation on working hours as well as the Government's timetable and roadmap for legislating for SWH could be discussed at a Panel meeting after receiving the Government's response. The Administration proposed that it would brief the Panel on the progress of SWHC in March 2015.

7. Implementation of the Protection of Wages on Insolvency (Amendment) Ordinance 2012

During the deliberations of the Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 2011, the Administration informed the Bills Committee that the Protection of Wages on Insolvency Fund ("PWIF") Board had agreed to conduct a review one year after the implementation of the Bill on the coverage of PWIF in respect of pay for untaken annual leave, pay for untaken statutory holidays and the payment ceiling of \$10,500. In response to members' suggestions at the Panel meeting on 19 February 2013, the PWIF Board undertook to review the other existing items, viz wages, wages in lieu of notice and severance payment, in the same review which commenced in the second half of 2013. The outcome of the review will be reported to the Panel at an appropriate time.

To be confirmed

The Administration advised that it would report to the Panel on the outcome of the review the coverage of existing ex gratia payment items under PWIF after the Fund Board and LAB had completed deliberation on the subject.

8. Rehabilitation services for injured employees

When the Panel was briefed on the situation of occupational diseases in Hong Kong in 2011 and the Administration's proposal to further increase the compensation levels of 15 items under ECO, the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) and the Occupational Deafness (Compensation) Ordinance (Cap. 469) at its meetings respectively on 12 April and 23 May 2012, a proposal was raised that insurers should consider providing financial assistance to the Hospital Authority for strengthening its rehabilitation services for injured employees, so as to avoid any possible conflict of interest of the rehabilitation service providers appointed by insurers. Hon LEE Cheuk-yan suggested that the Panel should follow up the matter in future. At the Panel meeting on 10 October 2013, Dr Hon KWOK Ka-ki suggested that the scope of the discussion should be extended to cover making the provision of rehabilitation services mandatory.

To be confirmed

9. Government policy relating to the outsourcing of service contracts

When the Panel discussed the Government policy relating to the outsourcing of service contracts relying heavily on the deployment of non-skilled workers at its meeting on 23 May 2012, many members held a strong view against the Administration's continued adoption of such policy, which was not conducive to outsourced workers' job security and accrual of length-of-service related statutory entitlement such as severance payment. There was a suggestion that the Panel should continue to follow up on the Government's policy on outsourcing of such service contracts.

To be confirmed

**Proposed timing
for discussion**

10. Scope of application of Section 43C of EO (Cap. 57)

In their letter dated 18 October 2012, Hon TANG Ka-piu and Hon KWOK Wai-keung proposed that the issue on expanding the scope of application of Section 43C of EO (Cap. 57) concerning the liability of a principal contractor and superior sub-contractor(s) to pay wages of employees of sub-contractors be discussed by the Panel.

To be confirmed

11. Importing live-in domestic workers from the Mainland

At the Panel meeting on 18 June 2013, Hon SIN Chung-kai suggested that the Administration's policy on the restriction on importing live-in domestic workers from the Mainland should be discussed by the Panel.

To be confirmed

12. Protection for sudden death of persons at work

In his letter dated 21 June 2013, Hon TANG Ka-piu proposed that issues relating to sudden death of employees at work and payment of employees' compensation be discussed by the Panel.

To be confirmed

At the Panel meeting on 31 July 2013, members agreed that the Administration be requested to provide written responses to the issues and concerns raised in the letter first. The Administration's response was circulated to members vide LC Paper No. CB(2)1743/12-13 on 28 August 2013.

13. Scope of the Employees Compensation Assistance Scheme

In their letter dated 16 July 2013, Dr Hon KWOK Ka-ki and Hon Dennis KWOK proposed that the scope of the Employees Compensation Assistance Scheme be discussed by the Panel.

To be confirmed

At the Panel meeting on 31 July 2013, members agreed that the Administration be requested to provide written

responses to the issues and concerns raised in the letter first. The Administration's response was circulated to members vide LC Paper No. CB(2)1743/12-13 on 28 August 2013.

14. Assessment for injured employees under ECO

At the Panel meeting on 10 October 2013, Dr Hon KWOK Ka-ki suggested that the Panel should discuss the assessment criteria for the compensation payable under ECO to employees who were injured arising out of and in the course of their employment.

To be confirmed

15. Legislative proposal on compulsory reinstatement and re-engagement

At the Panel meeting on 19 November 2013, members were advised that the Labour and Welfare Bureau was working closely with the Department of Justice and the Judiciary to resolve certain issues concerning court procedures and legal principles with regard to the Employment (Amendment) Bill which sought to empower the Labour Tribunal to make a compulsory order for reinstatement or re-engagement of an employee who had been dismissed unreasonably and unlawfully. Members agreed that the Administration should expedite the drafting of the relevant legislative proposal so as to facilitate the introduction of the amendment bill within the 2013-2014 legislative session and be requested to provide members with the relevant legislative timetable by December 2013. The Administration's responses were circulated to members vide LC Paper Nos. CB(2)555/13-14(01) and (02) on 20 December 2013.

To be confirmed

At the Panel meeting on 9 October 2014, Hon TANG Ka-piu suggested that the Panel should follow up the progress of the relevant legislative proposal.

The Administration advised that as the bill involved complicated legal issues, the Labour Department and the Department of Justice were conducting discussions on the

contents of the bill and ways of resolving the technical issues concerned, and that they were striving to finalise the bill. The Administration's response on the progress was circulated to members vide LC Paper No. CB(2)383/14-15(01) on 3 December 2014.

16. Minimum Wage (Amendment) Bill proposed by Hon KWOK Wai-keung

Item proposed by Hon KWOK Wai-keung vide his letter dated 11 June 2014 (LC Paper No. CB(2)1849/13-14). The Bill seeks to require the Minimum Wage Commission ("MWC") to submit its recommendation report on the SMW rate on an annual basis. Members agreed at the Panel meeting on 17 June 2014 that the subject be discussed in the 2014-2015 session.

To be confirmed

The Administration's written response to the issues raised in Mr KWOK's letter was circulated to members vide LC Paper No. CB(2)383/14-15(01) on 3 December 2014.

17. Review of SMW rate

At the Panel meeting on 9 October 2014, noting that MWC would submit a recommendation report on the review of the SMW rate to the Chief Executive in Council by end of October 2014, Hon LEE Cheuk-yan suggested that the Panel should discuss the subject as soon as practicable.

To be confirmed

The Administration advised that it would revert to LegCo upon the release of MWC's recommendation report.

The Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2015 and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2015 were gazetted on 16 January 2015 and tabled in LegCo on 21 January 2015, which seek to increase the SMW rate from \$30 per hour to \$32.5 per hour and raise the monetary cap of the requirement on employers to keep records of the total number of hours worked by employees

**Proposed timing
for discussion**

from \$12,300 to \$13,300 per month. A subcommittee has been formed to study these two Notices.

18. Work safety of Repair, Maintenance, Alteration and Addition ("RMAA") works

The Administration intends to brief the Panel on the work safety of RMAA works.

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19. Major findings of the 2014 Annual Earnings and Hours Survey

The Administration intends to brief the Panel on the major findings of the 2014 Annual Earnings and Hours Survey.

Second/Third
Quarter of 2015

20. Results of comprehensive review of the Work Incentive Transport Subsidy ("WITS") Scheme

The Administration intends to brief the Panel on the results of comprehensive review of the WITS Scheme.

Third/Fourth
Quarter of 2015

The Panel will receive views from deputations on the subject at its meeting on 10 February 2015.

21. Hong Kong's Occupational Safety Performance

The Administration intends to brief the Panel on the overall occupational safety performance in 2014.

Second/Third
Quarter of 2015

22. Report on Occupational Diseases and Occupational Health Performance in Hong Kong in 2014

The Administration intends to brief the Panel on the occupational diseases and occupational health performance in Hong Kong in 2014.

Second/Third
Quarter of 2015

**Proposed timing
for discussion**

23. Employment of foreign domestic helpers ("FDHs")

The Administration intends to revert to the Panel in respect of the proposal of strengthening the regulation of employment agencies for FDHs at appropriate time.

To be confirmed